

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SCOTT RODGERS,)	CASE NO. 04-11842-PBS
Plaintiff,)	
)	
v.)	
)	
CORRECTION OFFICER ORCHID,)	
UNKNOWN CORRECTION OFFICER)	
JOHN DOE, JOE WHITMORE,)	
DOCTOR HOWARD, JOHN SMITH,)	
PLYMOUTH COUNTY)	
Defendants.)	
)	

PLAINTIFF RODGERS MOTION TO RE-OPEN CASE

Pursuant to Fed R. Civ. P 60(a), the Plaintiff hereby moves this Court to re-open the case as to Defendant Dr. Howard. As grounds therefore, the Plaintiff states the following:

1. After mediation on November 2, 2006, the case was mistakenly reported as settled as to all Defendants.
2. Dr. Howard was not a party to the mediation.
3. The Plaintiff settled his claim with Defendants Whitmore and Plymouth County only.
4. Pursuant to the stipulation executed by the parties on December 18, 2006, only Defendants Whitmore and Plymouth County were to be dismissed from the case.
5. Pending before the Court at the time of the case's closure was the Plaintiff's motion to amend his complaint to add a malpractice claim against Dr. Howard (See Docket entry 47, filed on 9/16/06), which the Plaintiff believes is meritorious and in the interest of justice.

Plaintiff Scott Rodgers
By his attorneys

DATED: December 19, 2006

//s// Michael Tumposky
Stephen Hrones (BBO No. 242860)
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CERTIFICATE OF SERVICE

I, Michael Tumposky, hereby certify that, on this the 19th day of December, 2006, I have caused to be served a copy of the forgoing, where unable to do so electronically, by first class mail, postage prepaid, to all counsel of record in this matter.

//s// Michael Tumposky
Michael Tumposky